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**TITLE 327 WATER POLLUTION CONTROL
BOARD**

LSA Document #00-235(F)

DIGEST

Adds 327 IAC 16 concerning confined feeding operations. Effective 30 days after filing with the secretary of state.

HISTORY

First Notice of Comment Period: November 1, 1997, Indiana Register (21 IR 848).

Second Notice of Comment Period: November 1, 1998, Indiana Register (22 IR 559).

Continuation of Second Notice of Comment Period: December 1, 1998, Indiana Register (22 IR 830).

Notice of First Hearing: September 1, 2000, Indiana Register (23 IR 3097).

Date of First Hearing: September 13, 2000.

Proposed Rule: November 1, 2000, Indiana Register (24 IR 450).

Notice of Second Hearing: March 1, 2001, Indiana Register (24 IR 1686).

Date of Second Hearing: March 14, 2001.

Notice of Recall: July 1, 2001, Indiana Register (24 IR 3071).

Date of Third Hearing: July 11, 2001.

Notice of Recall: November 1, 2001, Indiana Register (25 IR 385).

Date of Readoption: November 14, 2001.

327 IAC 16

SECTION 1. 327 IAC 16 IS ADDED TO READ AS FOLLOWS:

ARTICLE 16. CONFINED FEEDING OPERATIONS

Rule 1. General Provisions

327 IAC 16-1-1 Applicability

Authority: IC 13-14-8-1; IC 13-18-10-4

Affected: IC 13-11-2; IC 13-18; IC 13-22

Sec. 1. (a) This article applies to the following:

- (1) Any person who owns, designs, constructs, operates, or closes a confined feeding operation.**
- (2) Any person responsible for application of manure onto the land in Indiana that is generated by a confined feeding operation.**

(b) This article does not apply to a person who applies manure from a confined feeding operation in amounts of less than ten (10) cubic yards or two thousand (2,000) gallons in a calendar year. (*Water Pollution Control Board; 327 IAC 16-1-1; filed Feb 8, 2002, 1:30 p.m.: 25 IR 1883*)

327 IAC 16-1-2 Compliance schedule

Authority: IC 13-14-8-1; IC 13-18-10-4

Affected: IC 13-11-2; IC 13-18; IC 13-22

Sec. 2. (a) Compliance with all sections of this article shall be on the effective date of this rule, except that the owner/operator of a confined feeding operation shall develop an emergency spill response plan in accordance with 327 IAC 16-9-4(a) prior to the collection and storage of any manure.

(b) All confined feeding operation approvals issued prior to the effective date of this rule shall expire five (5) years from the date of the submission of the most recently submitted manure management plan unless an application for renewal has been submitted in accordance with 327 IAC 16-7-4. Approval renewals shall be issued for a fixed term not to exceed five (5) years. (Water Pollution Control Board; 327 IAC 16-1-2; filed Feb 8, 2002, 1:30 p.m.: 25 IR 1883)

327 IAC 16-1-3 Appeal of decisions

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-18-10-4

Affected: IC 4-21.5; IC 13-11-2; IC 13-14; IC 13-15; IC 13-18; IC 13-30

Sec. 3. A decision by the commissioner to approve, deny, revoke, amend, require an approval, or impose additional requirements under this article is appealable under IC 4-21.5. Information on appeal rights shall be provided with the documentation of the commissioner's decision. (Water Pollution Control Board; 327 IAC 16-1-3; filed Feb 8, 2002, 1:30 p.m.: 25 IR 1883)

327 IAC 16-1-4 Federal and state requirements

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-18-10-4

Affected: IC 4-21.5; IC 13-11-2; IC 13-14; IC 13-15; IC 13-18; IC 13-30

Sec. 4. An approval under this article is intended to satisfy the environmental requirements under the Clean Water Act. The commissioner is not limited from requiring a NPDES permit under 327 IAC [sic., this title]. (Water Pollution Control Board; 327 IAC 16-1-4; filed Feb 8, 2002, 1:30 p.m.: 25 IR 1883)

Rule 2. Definitions

327 IAC 16-2-1 "Agronomic rate" defined

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-18-10-4

Affected: IC 13-11-2; IC 13-14; IC 13-15; IC 13-18; IC 13-30

Sec. 1. "Agronomic rate" means a rate of application of manure to the land based on:

- (1) the nutrient content of the manure to be applied;**
- (2) the fertility level of the soil;**
- (3) the nutrient needs of the current or planned crops;**
- (4) the nutrient holding capacity of the soil; and**
- (5) additional sources of nutrients, including legume credits, process wastewater, biosolids, or commercial fertilizer.**

(Water Pollution Control Board; 327 IAC 16-2-1; filed Feb 8, 2002, 1:30 p.m.: 25 IR 1883)

327 IAC 16-2-2 "Bedrock" defined

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-18-10-4

Affected: IC 13-11-2; IC 13-14; IC 13-15; IC 13-18; IC 13-30

Sec. 2. "Bedrock" means cemented or consolidated earth materials exposed on the earth's surface or underlying unconsolidated earth materials. (Water Pollution Control Board; 327 IAC 16-2-2; filed Feb 8, 2002, 1:30 p.m.: 25 IR 1883)

327 IAC 16-2-3 "Commissioner" defined

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-18-10-4

Affected: IC 13-11-2-35; IC 13-14; IC 13-15; IC 13-18; IC 13-30

Sec. 3. "Commissioner", as defined in IC 13-11-2-35, refers to the commissioner of the department of environmental management. (Water Pollution Control Board; 327 IAC 16-2-3; filed Feb 8, 2002, 1:30 p.m.: 25 IR 1884)

327 IAC 16-2-4 "Confined feeding" defined

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-18-10-4

Affected: IC 13-11-2-29; IC 13-14; IC 13-15; IC 13-18; IC 13-30

Sec. 4. (a) “Confined feeding”, as defined in IC 13-11-2-39, means the confined feeding of animals for food, fur, or pleasure purposes in lots, pens, ponds, sheds, or buildings where:

- (1) animals are confined, fed, and maintained for at least forty-five (45) days during any twelve (12) month period; and**
- (2) ground cover or vegetation is not sustained over at least fifty percent (50%) of the animal confinement area.**

(b) The term does not include the following:

(1) A livestock market:

(A) where animals are assembled from at least two (2) sources to be publicly auctioned or privately sold on a commission basis; and

(B) that is under state or federal supervision.

(2) A livestock sale barn or auction market where animals are kept for not more than ten (10) days.

(Water Pollution Control Board; 327 IAC 16-2-4; filed Feb 8, 2002, 1:30 p.m.: 25 IR 1884)

327 IAC 16-2-5 “Confined feeding operation” defined

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-18-10-4

Affected: IC 4-21.5; IC 13-11-2-40; IC 13-14; IC 13-15; IC 13-18-10; IC 13-30

Sec. 5. “Confined feeding operation”, as defined in IC 13-11-2-40, means any:

(1) confined feeding of at least:

(A) three hundred (300) cattle;

(B) six hundred (600) swine or sheep; or

(C) thirty thousand (30,000) fowl;

(2) animal feeding operation electing to be subject to IC 13-18-10; or

(3) animal feeding operation that causes a violation of:

(A) water pollution control laws;

(B) any rules of the water pollution control board; or

(C) IC 13-18-10.

A determination by the department under this subdivision is appealable under IC 4-21.5. *(Water Pollution Control Board; 327 IAC 16-2-5; filed Feb 8, 2002, 1:30 p.m.: 25 IR 1884)*

327 IAC 16-2-6 “Construction” defined

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-18-10-4

Affected: IC 13-11-2-40.8; IC 13-14; IC 13-15; IC 13-18-10; IC 13-30

Sec. 6. “Construction”, as defined in IC 13-11-2-40.8, for purposes of IC 13-18-10, means the fabrication, erection, or installation of a facility or manure control equipment at the location where the facility or manure control equipment is intended to be used. The term does not include the following:

(1) The dismantling of existing equipment and control devices.

(2) The ordering of equipment and control devices.

(3) Off-site fabrication.

(4) Site preparation.

(Water Pollution Control Board; 327 IAC 16-2-6; filed Feb 8, 2002, 1:30 p.m.: 25 IR 1884)

327 IAC 16-2-7 “Contaminated run-off” defined

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-18-10-4

Affected: IC 13-11-2; IC 13-14; IC 13-15; IC 13-18; IC 13-30

Sec. 7. “Contaminated run-off” means any precipitation or surface water that has come into contact with any liquid or solid animal excreta or any used bedding, litter, or waste liquid at the confined feeding operation.

(Water Pollution Control Board; 327 IAC 16-2-7; filed Feb 8, 2002, 1:30 p.m.: 25 IR 1884)

327 IAC 16-2-8 “Department” defined

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-18-10-4
Affected: IC 13-11-2-51; IC 13-14; IC 13-15; IC 13-18; IC 13-30

Sec. 8. “Department”, as defined in IC 13-11-2-51, refers to the department of environmental management. *(Water Pollution Control Board; 327 IAC 16-2-8; filed Feb 8, 2002, 1:30 p.m.: 25 IR 1884)*

327 IAC 16-2-9 “Discharge” defined

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-18-10-4
Affected: IC 13-11-2; IC 13-14; IC 13-15; IC 13-18; IC 13-30

Sec. 9. “Discharge”, for purposes of this article, means any addition of any pollutant, or combination of pollutants, into any waters of the state from a point source. The term includes, without limitation, an addition of a pollutant into any waters of the state from the following:

- (1) Surface run-off that is collected or channeled by human activity.**
- (2) Discharges through pipes, sewers, or other conveyances, including natural channels that do not lead to treatment works.**

(Water Pollution Control Board; 327 IAC 16-2-9; filed Feb 8, 2002, 1:30 p.m.: 25 IR 1884)

327 IAC 16-2-10 “Drainage inlet” defined

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-18-10-4
Affected: IC 13-11-2; IC 13-14; IC 13-15; IC 13-18; IC 13-30

Sec. 10. “Drainage inlet” means any surficial opening to an underground tile drainage system that drains to waters of the state. For purposes of this article, “drainage inlet” includes water and sediment control basins. *(Water Pollution Control Board; 327 IAC 16-2-10; filed Feb 8, 2002, 1:30 p.m.: 25 IR 1885)*

327 IAC 16-2-11 “Feedlot” defined

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-18-10-4
Affected: IC 13-11-2; IC 13-14; IC 13-15; IC 13-18; IC 13-30

Sec. 11. “Feedlot” means an outside lot or pen used for confined feeding, including areas that may be covered, partially covered, or uncovered. *(Water Pollution Control Board; 327 IAC 16-2-11; filed Feb 8, 2002, 1:30 p.m.: 25 IR 1885)*

327 IAC 16-2-12 “Filter strip” defined

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-18-10-4
Affected: IC 13-11-2; IC 13-14; IC 13-15; IC 13-18; IC 13-30

Sec. 12. “Filter strip” means a relatively uniform and maintained vegetated area used for collecting sediment and cleansing run-off. *(Water Pollution Control Board; 327 IAC 16-2-12; filed Feb 8, 2002, 1:30 p.m.: 25 IR 1885)*

327 IAC 16-2-13 “Flood plain” defined

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-18-10-4
Affected: IC 13-11-2; IC 13-14; IC 13-15; IC 13-18; IC 13-30

Sec. 13. “Flood plain” means any area adjoining a river, stream, or lake that has been or may be covered by a one hundred (100) year flood. *(Water Pollution Control Board; 327 IAC 16-2-13; filed Feb 8, 2002, 1:30 p.m.: 25 IR 1885)*

327 IAC 16-2-14 “Floodway” defined

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-18-10-4
Affected: IC 13-11-2; IC 13-14; IC 13-15; IC 13-18; IC 13-30

Sec. 14. “Floodway” means the channel of a river or stream and those portions of the flood plain adjoining the channel that are reasonably required to efficiently carry and discharge the peak flood flow of a one hundred (100) year flood as determined by 310 IAC 6. *(Water Pollution Control Board; 327 IAC 16-2-14; filed Feb 8, 2002,*

1:30 p.m.: 25 IR 1885)

327 IAC 16-2-15 “Gradient barrier” defined

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-18-10-4

Affected: IC 13-11-2; IC 13-14; IC 13-15; IC 13-18; IC 13-30

Sec. 15. “Gradient barrier” means a structure or feature that prevents run-off from entering waters of the state. (*Water Pollution Control Board; 327 IAC 16-2-15; filed Feb 8, 2002, 1:30 p.m.: 25 IR 1885*)

327 IAC 16-2-16 “Ground water” defined

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-18-10-4

Affected: IC 13-11-2; IC 13-14; IC 13-15; IC 13-18; IC 13-30

Sec. 16. “Ground water” means such accumulations of underground water, natural or artificial, public and private, or parts thereof, which are wholly or partially within, flow through, or border upon this state, but excluding manmade underground storage or conveyance structures. (*Water Pollution Control Board; 327 IAC 16-2-16; filed Feb 8, 2002, 1:30 p.m.: 25 IR 1885*)

327 IAC 16-2-17 “Highly erodible land” defined

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-18-10-4

Affected: IC 13-11-2; IC 13-14; IC 13-15; IC 13-18; IC 13-30

Sec. 17. “Highly erodible land” means land that has a high potential to erode based on site-specific characteristics, such as slope length and steepness, rainfall, run-off, wind, soil type, and soil conditions. (*Water Pollution Control Board; 327 IAC 16-2-17; filed Feb 8, 2002, 1:30 p.m.: 25 IR 1885*)

327 IAC 16-2-18 “Historic site” defined

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-18-10-4

Affected: IC 13-11-2; IC 13-14; IC 13-15; IC 13-18; IC 13-30; IC 14-8-2-125

Sec. 18. “Historic site”, as defined in IC 14-8-2-125, means a site that is important to the general, archaeological, agricultural, economic, social, political, architectural, industrial, or cultural history of Indiana. The term includes adjacent property that is necessary for the preservation or restoration of the site. (*Water Pollution Control Board; 327 IAC 16-2-18; filed Feb 8, 2002, 1:30 p.m.: 25 IR 1885*)

327 IAC 16-2-19 “Incorporation” defined

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-18-10-4

Affected: IC 13-11-2; IC 13-14; IC 13-15; IC 13-18; IC 13-30

Sec. 19. “Incorporation” means the mixing of liquid or solid manure, with the surface soil using standard agricultural practices, such as tillage. (*Water Pollution Control Board; 327 IAC 16-2-19; filed Feb 8, 2002, 1:30 p.m.: 25 IR 1885*)

327 IAC 16-2-20 “Injection” defined

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-18-10-4

Affected: IC 13-11-2; IC 13-14; IC 13-15; IC 13-18; IC 13-30

Sec. 20. “Injection” means the placement of liquid manure beneath the surface of the soil in the crop root zone using equipment specifically designed for this purpose. (*Water Pollution Control Board; 327 IAC 16-2-20; filed Feb 8, 2002, 1:30 p.m.: 25 IR 1885*)

327 IAC 16-2-21 “Karst terrain” defined

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-18-10-4

Affected: IC 13-11-2; IC 13-14; IC 13-15; IC 13-18; IC 13-30

Sec. 21. “Karst terrain” means an area where karst topography, including the characteristic surface and subterranean features, has developed as the result of dissolution of limestone, dolomite, or other soluble rock.

Characteristic physiographic features present in karst terrains include the following:

- (1) Sinkholes.**
- (2) Sinking streams.**
- (3) Caves.**
- (4) Large springs.**
- (5) Blind valleys.**

(Water Pollution Control Board; 327 IAC 16-2-21; filed Feb 8, 2002, 1:30 p.m.: 25 IR 1885)

327 IAC 16-2-22 “Manure” defined

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-18-10-4

Affected: IC 13-11-2; IC 13-14; IC 13-15; IC 13-18; IC 13-30

Sec. 22. “Manure” means any liquid or solid animal excreta or any used bedding, litter, waste liquid, or contaminated run-off. *(Water Pollution Control Board; 327 IAC 16-2-22; filed Feb 8, 2002, 1:30 p.m.: 25 IR 1886)*

327 IAC 16-2-23 “Manure application” defined

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-18-10-4

Affected: IC 13-11-2; IC 13-14; IC 13-15; IC 13-18; IC 13-30

Sec. 23. “Manure application” means the placement of liquid or solid manure by:

- (1) spraying or spreading onto the land surface;**
- (2) injection below the land surface; or**
- (3) incorporation into the soil.**

(Water Pollution Control Board; 327 IAC 16-2-23; filed Feb 8, 2002, 1:30 p.m.: 25 IR 1886)

327 IAC 16-2-24 “Manure storage structure” defined

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-18-10-4

Affected: IC 13-11-2; IC 13-14; IC 13-15; IC 13-18; IC 13-30

Sec. 24. “Manure storage structure” means any pad, pit, pond, lagoon, tank, building, or manure containment area used to store or treat manure, including any portions of buildings used specifically for manure storage or treatment. *(Water Pollution Control Board; 327 IAC 16-2-24; filed Feb 8, 2002, 1:30 p.m.: 25 IR 1886)*

327 IAC 16-2-25 “Manure transfer system” defined

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-18-10-4

Affected: IC 13-11-2; IC 13-14; IC 13-15; IC 13-18; IC 13-30

Sec. 25. “Manure transfer system” means any pipes, lift stations, pumps, or other stationary devices used for the transfer of manure. *(Water Pollution Control Board; 327 IAC 16-2-25; filed Feb 8, 2002, 1:30 p.m.: 25 IR 1886)*

327 IAC 16-2-26 “Manure transfer vehicle” defined

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-18-10-4

Affected: IC 13-11-2; IC 13-14; IC 13-15; IC 13-18; IC 13-30

Sec. 26. “Manure transfer vehicle” means a vehicle, tank, or wagon used to move manure. *(Water Pollution Control Board; 327 IAC 16-2-26; filed Feb 8, 2002, 1:30 p.m.: 25 IR 1886)*

327 IAC 16-2-27 “New manure storage structure” defined

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-18-10-4

Affected: IC 13-11-2; IC 13-14; IC 13-15; IC 13-18; IC 13-30

Sec. 27. “New manure storage structure” means any manure storage structure:

- (1) for which an application for approval was received by the commissioner on or after the effective date of this rule; and**
- (2) that is approved after the effective date of this rule.**

(Water Pollution Control Board; 327 IAC 16-2-27; filed Feb 8, 2002, 1:30 p.m.: 25 IR 1886)

327 IAC 16-2-28 “Operating record” defined

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-18-10-4

Affected: IC 13-11-2; IC 13-14; IC 13-15; IC 13-18; IC 13-30

Sec. 28. “Operating record” means the written record of the confined feeding operation activities required by this article and kept by the owner/operator. (*Water Pollution Control Board; 327 IAC 16-2-28; filed Feb 8, 2002, 1:30 p.m.: 25 IR 1886*)

327 IAC 16-2-29 “Owner/operator” defined

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-18-10-4

Affected: IC 13-11-2; IC 13-14; IC 13-15; IC 13-18; IC 13-30

Sec. 29. (a) “Owner/operator”, for purposes of this rule, means the person:

- (1) that owns the waste management systems at the confined feeding operation;**
- (2) that owns the livestock at the confined feeding operation and that applies for or has received an approval pursuant to this article; or**
- (3) in direct or responsible charge or control of one (1) or more confined feeding operations or land application activity.**

(b) The term includes contractors responsible for activities described in 327 IAC 16-1-1(a) at the confined feeding operation. (*Water Pollution Control Board; 327 IAC 16-2-29; filed Feb 8, 2002, 1:30 p.m.: 25 IR 1886*)

327 IAC 16-2-30 “Potentially available nitrogen” defined

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-18-10-4

Affected: IC 13-11-2; IC 13-14; IC 13-15; IC 13-18; IC 13-30

Sec. 30. “Potentially available nitrogen” means the nitrogen that could be realistically taken up by a crop during one (1) growing season. Potentially available nitrogen is usually calculated as the sum total of:

- (1) ammonium nitrogen;**
- (2) nitrate nitrogen; and**
- (3) the percent organic nitrogen that will mineralize in one (1) growing season.**

(*Water Pollution Control Board; 327 IAC 16-2-30; filed Feb 8, 2002, 1:30 p.m.: 25 IR 1886*)

327 IAC 16-2-31 “Public water supply surface intake structure” defined

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-18-10-4

Affected: IC 13-11-2; IC 13-14; IC 13-15; IC 13-18; IC 13-30

Sec. 31. “Public water supply surface intake structure” means any structure used for the purpose of providing water through a public water supply system. (*Water Pollution Control Board; 327 IAC 16-2-31; filed Feb 8, 2002, 1:30 p.m.: 25 IR 1887*)

327 IAC 16-2-32 “Public water supply well” defined

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-18-10-4

Affected: IC 13-11-2; IC 13-14; IC 13-15; IC 13-18; IC 13-30

Sec. 32. “Public water supply well” means any well that provides water to the public through a water distribution system that:

- (1) serves at least twenty-five (25) persons per day for:**
 - (A) drinking;**
 - (B) domestic use; or**
 - (C) other purposes; or**
- (2) has at least fifteen (15) service connections.**

(*Water Pollution Control Board; 327 IAC 16-2-32; filed Feb 8, 2002, 1:30 p.m.: 25 IR 1887*)

327 IAC 16-2-33 “Registered professional engineer” defined

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-18-10-4

Affected: IC 13-11-2; IC 13-14; IC 13-15; IC 13-18; IC 13-30; IC 25-31

Sec. 33. “Registered professional engineer” means a professional engineer registered by the state under IC 25-31. *(Water Pollution Control Board; 327 IAC 16-2-33; filed Feb 8, 2002, 1:30 p.m.: 25 IR 1887)*

327 IAC 16-2-34 “Sensitive area” defined

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-18-10-4

Affected: IC 13-11-2; IC 13-14; IC 13-15; IC 13-18; IC 13-30; IC 14-31; IC 14-38-1-5

Sec. 34. “Sensitive area” means a site where conditions exist that pose a specific water quality threat to one (1) or more of the following:

- (1) Aquifers used as a source of drinking water.
- (2) Public water supply wells.
- (3) Wellhead protection areas.
- (4) Drinking water supply reservoirs.
- (5) Areas requiring special protection, such as:
 - (A) wetlands, except for wetlands constructed for manure management;
 - (B) karst terrains;
 - (C) the critical habitat of an endangered species; or
 - (D) natural areas, including:
 - (i) parks;
 - (ii) nature preserves, as regulated under IC 14-31;
 - (iii) historic sites, as defined in section 18 of this rule; and
 - (iv) public lands, as defined in IC 14-38-1-5.

(Water Pollution Control Board; 327 IAC 16-2-34; filed Feb 8, 2002, 1:30 p.m.: 25 IR 1887)

327 IAC 16-2-35 “Spill” defined

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-18-10-4

Affected: IC 13-11-2; IC 13-14; IC 13-15; IC 13-18; IC 13-30

Sec. 35. “Spill” means any unexpected, unintended, abnormal, or unapproved dumping, leakage, drainage, seepage, discharge or other loss of petroleum, hazardous substances, extremely hazardous substances, or objectionable substances. The term does not include releases to impermeable surfaces when the substance does not migrate off the surface or penetrate the surface and enter the soil. *(Water Pollution Control Board; 327 IAC 16-2-35; filed Feb 8, 2002, 1:30 p.m.: 25 IR 1887)*

327 IAC 16-2-36 “Spray irrigation” defined

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-18-10-4

Affected: IC 13-11-2; IC 13-14; IC 13-15; IC 13-18; IC 13-30

Sec. 36. “Spray irrigation” means the application of manure on the land through a stationary or mobile sprinkler type system. *(Water Pollution Control Board; 327 IAC 16-2-36; filed Feb 8, 2002, 1:30 p.m.: 25 IR 1887)*

327 IAC 16-2-37 “Staging” defined

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-18-10-4

Affected: IC 13-11-2; IC 13-14; IC 13-15; IC 13-18; IC 13-30

Sec. 37. “Staging” means the temporary placement of manure in a pile at the site where the manure will be land applied. *(Water Pollution Control Board; 327 IAC 16-2-37; filed Feb 8, 2002, 1:30 p.m.: 25 IR 1887)*

327 IAC 16-2-38 “Surface application” defined

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-18-10-4

Affected: IC 13-11-2; IC 13-14; IC 13-15; IC 13-18; IC 13-30

Sec. 38. “Surface application” means the placement of manure by spraying or spreading onto the land surface. *(Water Pollution Control Board; 327 IAC 16-2-38; filed Feb 8, 2002, 1:30 p.m.: 25 IR 1887)*

327 IAC 16-2-39 “Surface water” defined

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-18-10-4

Affected: IC 13-11-2; IC 13-14; IC 13-15; IC 13-18; IC 13-30

Sec. 39. “Surface water” means water present on the surface of the earth, including:

- (1) streams;**
- (2) lakes;**
- (3) ponds;**
- (4) rivers;**
- (5) swamps;**
- (6) marshes; or**
- (7) wetlands.**

(Water Pollution Control Board; 327 IAC 16-2-39; filed Feb 8, 2002, 1:30 p.m.: 25 IR 1887)

327 IAC 16-2-40 “Uncovered” defined

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-18-10-4

Affected: IC 13-11-2; IC 13-14; IC 13-15; IC 13-18; IC 13-30

Sec. 40. “Uncovered” means any structure that allows exposure of manure to precipitation events or to the run-on or run-off from precipitation events. *(Water Pollution Control Board; 327 IAC 16-2-40; filed Feb 8, 2002, 1:30 p.m.: 25 IR 1888)*

327 IAC 16-2-41 “Vegetative management system” defined

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-18-10-4

Affected: IC 13-11-2; IC 13-14; IC 13-15; IC 13-18; IC 13-30

Sec. 41. “Vegetative management system” means a vegetated area designed to accept contaminated run-off or waste liquid after settling for the purpose of treatment or infiltration into the soil. *(Water Pollution Control Board; 327 IAC 16-2-41; filed Feb 8, 2002, 1:30 p.m.: 25 IR 1888)*

327 IAC 16-2-42 “Waste liquid” defined

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-18-10-4

Affected: IC 13-11-2; IC 13-14; IC 13-15; IC 13-18; IC 13-30

Sec. 42. “Waste liquid” means liquid to be handled as manure that is generated at the confined feeding operation, including:

- (1) excess drinking water;**
- (2) clean-up water;**
- (3) contaminated livestock truck or trailer washwater;**
- (4) milking parlor wastewater;**
- (5) milk house washwater;**
- (6) egg washwater; or**
- (7) silage leachate.**

(Water Pollution Control Board; 327 IAC 16-2-42; filed Feb 8, 2002, 1:30 p.m.: 25 IR 1888)

327 IAC 16-2-43 “Waste liquid storage system” defined

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-18-10-4

Affected: IC 13-11-2; IC 13-14; IC 13-15; IC 13-18; IC 13-30

Sec. 43. “Waste liquid storage system” means any storage structures, conveyances, or other devices to manage waste liquids. *(Water Pollution Control Board; 327 IAC 16-2-43; filed Feb 8, 2002, 1:30 p.m.: 25 IR 1888)*

327 IAC 16-2-44 “Waste management system” defined

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-18-10-4

Affected: IC 13-11-2; IC 13-14; IC 13-15; IC 13-18; IC 13-30

Sec. 44. “Waste management system” means any method of managing manure at the confined feeding operation, including:

- (1) manure storage structures;**
- (2) manure transfer systems;**
- (3) manure treatment systems, such as:**
 - (A) a constructed wetland;**
 - (B) a vegetative management system;**
 - (C) a wastewater treatment system under a valid national pollutant discharge elimination system (NPDES) permit; or**
 - (D) another system approved by the commissioner;**
- (4) feedlots;**
- (5) confinement buildings; or**
- (6) waste liquid handling, storage, and treatment systems.**

(Water Pollution Control Board; 327 IAC 16-2-44; filed Feb 8, 2002, 1:30 p.m.: 25 IR 1888)

327 IAC 16-2-45 “Waters” defined

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-18-10-4

Affected: IC 13-11-2-265; IC 13-14; IC 13-15; IC 13-18; IC 13-30

Sec. 45. (a) “Waters”, as defined in IC 13-11-2-265, means:

- (1) the accumulations of water, surface and underground, natural and artificial, public and private; or**
- (2) a part of the accumulations of water;**

that are wholly or partially within, flow through, or border upon Indiana.

(b) The term does not include:

- (1) a private pond; or**
- (2) an off-stream pond, reservoir, or facility built for reduction or control of pollution or cooling of water prior to discharge;**

unless the discharge from the pond, reservoir, or facility causes or threatens to cause water pollution. *(Water Pollution Control Board; 327 IAC 16-2-45; filed Feb 8, 2002, 1:30 p.m.: 25 IR 1888)*

Rule 3. Performance Standards for All Confined Feeding Operations

327 IAC 16-3-1 Performance standards

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-18-10-4

Affected: IC 13-11-2; IC 13-14; IC 13-15; IC 13-18; IC 13-30

Sec. 1. (a) A confined feeding operation shall be managed to avoid an unpermitted discharge into waters of the state.

(b) A confined feeding operation must be conducted in a manner that minimizes nonpoint source pollution entering waters of the state.

(c) A confined feeding operation shall immediately take all reasonable steps to prevent spills or the discharge of manure in violation of the approval or this article, including seepage and leakage.

(d) All waste management systems must be designed, constructed, and maintained to minimize leaks and seepage and prevent spills.

(e) Manure to be staged or applied to land in Indiana must be staged or applied in such a manner as:

- (1) not to enter or threaten to enter waters of the state;**
- (2) to prevent:**
 - (A) run-off;**
 - (B) ponding for more than twenty-four (24) hours; and**
 - (C) spills; and**

(3) to minimize nutrient leaching beyond the root zone.
(Water Pollution Control Board; 327 IAC 16-3-1; filed Feb 8, 2002, 1:30 p.m.: 25 IR 1888)

Rule 4. General Approval Conditions

327 IAC 16-4-1 Requirement to obtain an approval

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-18-10-4
Affected: IC 13-11-2; IC 13-14; IC 13-15; IC 13-18; IC 13-30

Sec. 1. Confined feeding operations must:

- (1) have a valid approval to operate; or**
- (2) close in accordance with 327 IAC 16-11.**

(Water Pollution Control Board; 327 IAC 16-4-1; filed Feb 8, 2002, 1:30 p.m.: 25 IR 1889)

327 IAC 16-4-2 Conditions applicable to all approvals

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-18-10-4
Affected: IC 13-11-2; IC 13-14; IC 13-15; IC 13-18-10; IC 13-30

Sec. 2. The following conditions apply to all confined feeding approvals:

- (1) The owner/operator must comply with all terms and conditions of the approval and this article.**
- (2) The owner/operator shall take all reasonable steps to prevent, minimize, or correct any adverse impact on the environment resulting from noncompliance with the approval or this article.**
- (3) The filing by the owner/operator of a request for an approval amendment, revocation and reissuance, or revocation does not stay or suspend any approval term or condition. The approval may be amended, revoked and reissued, or revoked for causing or threatening to cause harm to the environment.**
- (4) The approval does not convey any property rights of any sort or any exclusive privilege.**
- (5) The owner/operator shall allow the commissioner, or an authorized representative (including an authorized contractor acting as a representative of the commissioner), upon the presentation of credentials and in compliance with biosecurity procedures developed by the department in consultation with the Indiana state board of animal health or individual owner/operators as defined in 327 IAC 16-2-29:**
 - (A) to enter upon the confined feeding operation premises or where any records must be kept under the terms and conditions of the approval or this article;**
 - (B) to have access for review to any records that must be kept under the terms and conditions of the approval;**
 - (C) to inspect, at reasonable times:**
 - (i) any monitoring equipment or method;**
 - (ii) any waste management systems; or**
 - (iii) practices required or otherwise regulated under the approval; and**
 - (D) to sample or monitor, at reasonable times, for the purpose of evaluating compliance with the approval or state and federal laws and regulations.**
- (6) The provisions of this approval are severable and, if any provision of the approval or the application of any provision of the approval to any circumstances is held invalid, the application of such provision to other circumstances and the remainder of this approval shall not be affected thereby.**

(Water Pollution Control Board; 327 IAC 16-4-2; filed Feb 8, 2002, 1:30 p.m.: 25 IR 1889)

327 IAC 16-4-3 Additional conditions for large confined feeding operations

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-18-10-4
Affected: IC 13-11-2; IC 13-14; IC 13-15; IC 13-18; IC 13-30

Sec. 3. (a) In addition to the other requirements of this article, the owner/operator of confined feeding operations with more than twenty (20) times the animal numbers listed in 327 IAC 16-2-5 must comply with the provisions in this section.

(b) The owner/operator shall comply with the public notice requirements under 327 IAC 16-7-12 and the public comment period and hearing requirements under 327 IAC 16-7-13.

(c) If determined to be necessary to protect human health or the environment, the commissioner may require additional design standards, operational requirements, or other best management practices, such as:

- (1) monitoring systems;
- (2) liners;
- (3) higher compaction;
- (4) reporting;
- (5) innovative technology; or
- (6) other protective measures.

(d) The commissioner shall provide written documentation describing the basis for requiring additional design or operational requirements. (*Water Pollution Control Board; 327 IAC 16-4-3; filed Feb 8, 2002, 1:30 p.m.: 25 IR 1889*)

327 IAC 16-4-4 Enforcement

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-18-10-4

Affected: IC 13-11-2; IC 13-14-2-6; IC 13-15; IC 13-18; IC 13-30-3

Sec. 4. For a confined feeding operation that has a valid approval, a violation of the operational requirements in 327 IAC 16-9, or land application of manure requirements in 327 IAC 16-10, may not be subject to an enforcement action pursuant to IC 13-30-3 or IC 13-14-2-6 if the violation:

- (1) has not caused a:
 - (A) discharge to waters of the state; or
 - (B) release of manure that has crossed a property boundary;
- (2) is corrected:
 - (A) immediately; or
 - (B) within a reasonable time frame as specified in a written notification of the violation by a department representative;
- (3) is not the same type of violation as a violation that occurred within the previous five (5) years; and
- (4) is not one of multiple concurrent violations that represent a threat to the environment.

(*Water Pollution Control Board; 327 IAC 16-4-4; filed Feb 8, 2002, 1:30 p.m.: 25 IR 1889*)

Rule 5. Alternate Design or Compliance Approach; Innovative Technology

327 IAC 16-5-1 Alternate design or compliance approach; innovative technology

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-18-10-4

Affected: IC 13-11-2; IC 13-14; IC 13-15; IC 13-18; IC 13-30

Sec. 1. (a) The use of a design or compliance approach other than the requirement specified in this article, or an innovative technology may be proposed by the owner/operator in accordance with the following:

- (1) The proposal for the alternative design or compliance approach, or innovative technology must be accompanied by documentation that indicates that the performance standards in 327 IAC 16-3-1 will be met. The alternative design or compliance approach, or innovative technology must comply with all existing environmental regulations and laws.
- (2) The proposed design or compliance approach, or innovative technology must be incorporated into the approval.

(b) In making a determination on an alternate design or compliance approach, or innovative technology, the commissioner shall consider applicable criteria that may include:

- (1) design specifications that indicate adequate structural integrity;
- (2) protective measures that reduce the potential for spills;
- (3) existence of barriers or surface gradient that directs liquid flow away from features specified for protection;
- (4) operational practices that provide additional protection;
- (5) threats of adverse impacts to water quality or other specified sensitive areas; and
- (6) other criteria related to protection of the environment or human health.

(c) The commissioner shall provide written documentation describing the basis for the approval or denial of the proposed alternate design, compliance approach, or innovative technology. (*Water Pollution Control Board; 327 IAC 16-5-1; filed Feb 8, 2002, 1:30 p.m.: 25 IR 1890*)

Rule 6. Existing Confined Feeding Operations

327 IAC 16-6-1 Existing confined feeding operations

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-18-10-4

Affected: IC 13-11-2; IC 13-14; IC 13-15; IC 13-18-10-2.3; IC 13-30

Sec. 1. (a) Existing confined feeding operations are not subject to 327 IAC 16-8, but must be maintained and operated in compliance with all:

- (1) federal laws;
- (2) state laws; and
- (3) approval conditions.

(b) The owner/operator of existing confined feeding operations shall comply with the following requirements by the effective date of this rule:

- (1) Operational requirements in 327 IAC 16-9, except the owner/operator shall comply with 327 IAC 16-9-4 within ninety (90) days of the effective date of this rule.
- (2) Manure application requirements in 327 IAC 16-10.
- (3) Manure management plan requirements in IC 13-18-10-2.3, and as described in 327 IAC 16-7-11.
- (4) Closure requirements in 327 IAC 16-11.

(c) An approval amendment is required for an increase in the amount of manure generated that:

- (1) reduces the storage capacity to less than the required storage capacity at the time of the most recent approval; or
- (2) results from an increase in the number of animals, excluding swine that weigh twenty-five (25) kilograms or less, by:
 - (i) more than the numbers in 327 IAC 16-2-5; or
 - (ii) greater than ten percent (10%) of the approved animal capacity at the time of the most recent approval.

(d) The owner/operator of an existing confined feeding operation shall have a soil test and a manure test conducted in accordance with a manure management plan prior to April 1, 2002.

(e) For existing confined feeding operations, application of manure to the land must be conducted in accordance with the following:

- (1) Prior to April 1, 2002, manure application must:
 - (A) be at a rate not to exceed one hundred fifty (150) pounds of potentially available nitrogen per acre per year for confined feeding operations that have not received soil and manure test results; or
 - (B) in accordance with agronomic rates for potentially available nitrogen as documented in the operating record for confined feeding operations that have received soil and manure test results.
- (2) After April 1, 2002, all manure application must be in accordance with agronomic rates for potentially available nitrogen as documented in records at the confined feeding operation.

(f) All confined feeding operation approvals issued prior to the effective date of this rule shall expire no later than five (5) years from the effective date of this rule unless a renewal application is submitted in accordance with 327 IAC 16-7-4. (*Water Pollution Control Board; 327 IAC 16-6-1; filed Feb 8, 2002, 1:30 p.m.: 25 IR 1890*)

Rule 7. Application and Approval Process for Confined Feeding Operations

327 IAC 16-7-1 Applicability

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-18-10-4

Affected: IC 4-21.5; IC 13-11-2; IC 13-14; IC 13-15; IC 13-18; IC 13-30

Sec. 1. (a) This rule applies to any person seeking approval for a confined feeding operation.

(b) A person shall not begin construction of a confinement building or waste management system at a new or an existing confined feeding operation without obtaining the prior written approval of the commissioner.

(c) All manure management structures approved prior to July 1, 1997, that have not been constructed, but that are intended to be constructed, must meet one (1) of the following:

(1) Construction must be:

(A) initiated by the effective date of this rule; and

(B) completed within two (2) years of the effective date of this rule or the date all appeals brought under IC 4-21.5 concerning the construction of the confined feeding operation have been completed, whichever is later.

(2) A new application for the manure management structure must be submitted to the department under this article.

(Water Pollution Control Board; 327 IAC 16-7-1; filed Feb 8, 2002, 1:30 p.m.: 25 IR 1891)

327 IAC 16-7-2 Application requirements

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-18-10-4

Affected: IC 13-11-2; IC 13-14; IC 13-15; IC 13-18-10-2; IC 13-30; IC 25-17.6

Sec. 2. (a) Two (2) copies of the application package for an approval of a confined feeding operation must be submitted to the commissioner in a format specified by the department.

(b) A complete application package must include all of the following information:

(1) A completed application form on forms provided by the department.

(2) A plot map as described in section 8 of this rule.

(3) A farmstead plan as described in section 9 of this rule.

(4) A waste management system drawing as described in section 10 of this rule.

(5) Soil and water table information from test holes for proposed liquid manure storage structures that are conducted by a soil scientist certified under the Federation of Certified Boards of Agriculture, Biology, Earth and Environmental Sciences, a professional geologist certified in Indiana under IC 25-17.6, or a professional engineer registered in Indiana. The number of test holes must be sufficient to adequately characterize the seasonal water table and soil. Test holes for concrete liquid manure storage structures must be at least two (2) feet below the base of the structure. Test holes for earthen liquid manure storage structures must be:

(A) at least five (5) feet below the base of the structure for non-karst areas; or

(B) in accordance with 327 IAC 16-8-1(b)(1) in areas of karst terrain or over mines.

(6) A manure management plan as described in section 11 of this rule.

(7) A description of any proposed alternative to a specific requirement in this article to indicate equivalent environmental and human health protection in accordance with 327 IAC 16-5.

(8) For new earthen liquid manure storage structures, certification of the structure design by a professional engineer registered in Indiana.

(9) A list of potentially affected parties.

(10) A fee of one hundred dollars (\$100), in accordance with IC 13-18-10-2(a)(5).

(11) Other plans or supplemental information that may be required by the commissioner to ensure compliance with this article. The commissioner shall provide written documentation of the basis for requiring any other plans or supplemental information.

(c) The commissioner may deny an approval application, or place conditions on an approval:

(1) if the confined feeding operation is, at the time of the approval application or approval decision, not in compliance with water pollution control laws, IC 13-18, or rules promulgated thereunder;

(2) consistent with IC 13-18-10-2.1; or

(3) if the application does not meet the requirements of this article.

(d) The commissioner shall provide written documentation of the basis for denial of the application or

placement of additional conditions on the approval. (*Water Pollution Control Board; 327 IAC 16-7-2; filed Feb 8, 2002, 1:30 p.m.: 25 IR 1891*)

327 IAC 16-7-3 Duration of approvals

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-18-10-4

Affected: IC 13-11-2; IC 13-14; IC 13-15; IC 13-18; IC 13-30

Sec. 3. (a) An approval and approval renewal shall be effective for a fixed term not to exceed five (5) years. An approval may be amended, revoked, and reissued, or revoked prior to the expiration of the term for cause, as specified in sections 5 and 6 of this rule, or in accordance with conditions set forth in the approval. In no event may the term of an approval be extended beyond five (5) years from its original effective date by amendment, extension, or other means, except as provided in subsection (b).

(b) If the owner/operator wishes to continue the activity regulated by the approval after the expiration date of the approval, the owner/operator shall apply for and obtain an approval renewal. The terms and conditions of an expired approval are automatically extended in full force and effect until the effective date of a renewal, if:

(1) the owner/operator has submitted a timely and sufficient application for an approval renewal under this article; and

(2) the commissioner, through no fault of the owner/operator, does not issue an approval renewal prior to the expiration date of the previous approval.

(Water Pollution Control Board; 327 IAC 16-7-3; filed Feb 8, 2002, 1:30 p.m.: 25 IR 1892)

327 IAC 16-7-4 Approval renewals

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-18-10-4

Affected: IC 4-21.5; IC 13-11-2; IC 13-14; IC 13-15; IC 13-18-10-2.3; IC 13-30-3

Sec. 4. (a) In accordance with IC 13-18-10-2.3, an updated manure management plan must be submitted once every five (5) years, along with the additional information required in subsection (b), prior to the expiration of the approval. Approval renewals shall be issued for a fixed term not to exceed five (5) years. A confined feeding operation that has had a discharge within the previous five (5) years that was, or is subject to an enforcement action by the department pursuant to IC 13-30-3 shall be subject to public notice requirements in section 13 of this rule upon receipt of a complete renewal application by the department. A confined feeding operation that has not had a discharge within the previous five (5) years that was, or is subject to an enforcement action by the department pursuant to IC 13-30-3 shall be considered to have a new approval renewal upon receipt of a complete approval renewal application by the department.

(b) The application for approval renewal must contain the following:

(1) The name, full address, phone number, and contact person for the confined feeding operation.

(2) An updated manure management plan in accordance with section 11 of this rule.

(3) If any information from the original application has changed, or is proposed to be changed, then updates of any applicable items in section 2(b) of this rule.

(Water Pollution Control Board; 327 IAC 16-7-4; filed Feb 8, 2002, 1:30 p.m.: 25 IR 1892)

327 IAC 16-7-5 Amendments and notifications

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-18-10-4

Affected: IC 13-11-2; IC 13-14; IC 13-15-7-1; IC 13-18-10-2.1; IC 13-30

Sec. 5. (a) The commissioner may issue amendments to approvals of a confined feeding operation at any time:

(1) pursuant to IC 13-18-10-2.1(e);

(2) to address phosphorous limits if adequate information indicates that the application of manure to land represents a water quality threat;

(3) at the request of the applicant to address changes at the confined feeding operation that do not require a new approval;

(4) as a result of an agreement between the department and the owner/operator; or

(5) due to a reduction in storage capacity that results in less than one hundred eighty (180) days storage capacity.

(b) Changes that require only written notification to the department, include the following:

(1) Changes to the positioning of a structure that remains in compliance with the setback distances and within the boundaries identified in the farmstead plan in section 9 of this rule and delineated by representative site borings.

(2) Changes to the design or construction of a structure as shown in as-built plans.

(3) Reduction in storage capacity that results in at least one hundred eighty (180) days combined storage at the confined feeding operation after the manure storage structure closure.

(4) Transfers of ownership as described in section 7 of this rule.

(5) Corrections of typographical or other minor errors within the approval or other minor changes as determined by the commissioner.

(c) The commissioner shall provide written documentation of the basis for issuing or denying an amendment.

(Water Pollution Control Board; 327 IAC 16-7-5; filed Feb 8, 2002, 1:30 p.m.: 25 IR 1892)

327 IAC 16-7-6 Revocation

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-18-10-4

Affected: IC 13-11-2; IC 13-14; IC 13-15; IC 13-18-10; IC 13-30

Sec. 6. (a) The commissioner may revoke an approval or a condition of an approval as a result of a violation of:

(1) water pollution control laws;

(2) rules adopted under the water pollution control laws;

(3) IC 13-18-10;

(4) this article; or

(5) approval conditions.

(b) The commissioner shall provide written documentation of the basis for revoking an approval or a condition of an approval. *(Water Pollution Control Board; 327 IAC 16-7-6; filed Feb 8, 2002, 1:30 p.m.: 25 IR 1892)*

327 IAC 16-7-7 Transferability

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-18-10-4

Affected: IC 13-11-2; IC 13-14; IC 13-15; IC 13-18; IC 13-30

Sec. 7. An approval issued by the department shall be transferred to another person by the current approval recipient if, at least forty-five (45) days prior to the date of the proposed transfer of the approval:

(1) the current approval recipient notifies the commissioner of the proposed transfer; and

(2) a written agreement is submitted to the commissioner containing:

(A) a specific date for transfer of approval responsibilities; and

(B) identification of responsibility for any violations existing at the time of the transfer.

(Water Pollution Control Board; 327 IAC 16-7-7; filed Feb 8, 2002, 1:30 p.m.: 25 IR 1893)

327 IAC 16-7-8 Plot maps

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-18-10-4

Affected: IC 13-11-2; IC 13-14; IC 13-15; IC 13-18; IC 13-30

Sec. 8. (a) The applicant shall submit plot maps of the location proposed for approval consisting of the following:

(1) A United States Department of Agriculture Natural Resources Conservation Service soil survey map.

(2) A United States Geological Survey topographical map that includes identification of any public water supply wells and public water supply surface intake structures within one thousand (1,000) feet of the manure storage structures.

(b) The maps in subsection (a) must be legible and clearly show the following:

- (1) The location of the waste management systems.**
- (2) The boundaries of the property of the confined feeding operation.**
- (3) The boundaries of all manure application areas.**

These maps will satisfy the requirement for maps under section 11(a)(3) of this rule. (Water Pollution Control Board; 327 IAC 16-7-8; filed Feb 8, 2002, 1:30 p.m.: 25 IR 1893)

327 IAC 16-7-9 Farmstead plan

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-18-10-4

Affected: IC 13-11-2; IC 13-14; IC 13-15; IC 13-18; IC 13-30

Sec. 9. (a) A farmstead plan must show all existing and proposed waste management systems, and, within five hundred (500) feet of the waste management systems, the following known features:

- (1) Residences.**
- (2) Surface waters of the state.**
- (3) Public and private roads.**
- (4) Water well locations.**
- (5) Characteristics of karst terrain as identified in 327 IAC 16-2-21.**
- (6) Drainage patterns.**
- (7) Property boundary line.**
- (8) All outfalls of known subsurface drainage structures.**
- (9) Drainage inlets, including water and sediment control basins.**

(b) In addition to subsection (a), the farmstead plan must show the diversion of uncontaminated surface water.

(c) The farmstead plan must be legible and either:

- (1) drawn to approximate scale; or**
- (2) show specific distances between:**
 - (A) the waste management systems; and**
 - (B) the features in subsection (a) that are within five hundred (500) feet of the existing or proposed waste management system.**

(d) The plan must be submitted on paper no less than eight and one-half (8½) inches by eleven (11) inches in size. (Water Pollution Control Board; 327 IAC 16-7-9; filed Feb 8, 2002, 1:30 p.m.: 25 IR 1893)

327 IAC 16-7-10 Waste management system drawing

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-18-10-4

Affected: IC 13-11-2; IC 13-14; IC 13-15; IC 13-18; IC 13-30

Sec. 10. The waste management system drawing must show detailed views and necessary cross sections to define all dimensions and construction materials. Systems relying on gravity flow must provide elevations of the entire waste management system. (Water Pollution Control Board; 327 IAC 16-7-10; filed Feb 8, 2002, 1:30 p.m.: 25 IR 1893)

327 IAC 16-7-11 Manure management plan

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-18-10-4

Affected: IC 13-11-2; IC 13-14; IC 13-15; IC 13-18; IC 13-30

Sec. 11. (a) A manure management plan must be developed and submitted to the commissioner that, at a minimum, contains the following:

- (1) Procedures for soil testing as described in subsections (c) and (e).**
- (2) Procedures for manure testing as described in subsections (d) and (e).**
- (3) Legible maps of manure application areas.**

(b) If applicable, the manure management plan must also contain a description of any:

- (1) alternate methods proposed by the applicant for managing of the manure; and
- (2) other practices to be used that assure the confined feeding operation meets the performance standards in this article.

(c) A soil test must be obtained that provides sufficient information about soil fertility to allow for nutrient recommendations for existing or planned crops and to minimize nutrient leaching.

(d) A manure test must be obtained that provides sufficient information about the manure content to allow for nutrient recommendations for existing or planned crops and to minimize nutrient leaching.

(e) The frequency of soil and manure testing must:

- (1) be specified in the manure management plan; and
- (2) be conducted a minimum of once every three (3) years unless a different frequency is justified in the manure management plan.

(f) One (1) manure test must be conducted for each type of manure generated.

(g) A manure management plan must be submitted to the department at least one (1) time every five (5) years and with any approval application and renewal application to maintain a valid approval for the confined feeding operation. A copy of the current manure management plan must be reasonably accessible to a representative of the department during an inspection. (*Water Pollution Control Board; 327 IAC 16-7-11; filed Feb 8, 2002, 1:30 p.m.: 25 IR 1893*)

327 IAC 16-7-12 Notice to adjacent landowners

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-18-10-4

Affected: IC 13-11-2; IC 13-14; IC 13-15; IC 13-18; IC 13-30

Sec. 12. An applicant who applies for approval to construct a confined feeding operation on land that is undeveloped or for which a valid existing approval has not been issued shall make a reasonable effort to provide notice:

(1) to:

(A) each person who owns land that adjoins the land on which the confined feeding operation is to be located; or

(B) if a person who owns land that adjoins the land on which the confined feeding operation is to be located does not occupy the land, all occupants of the land; and

(2) to the county commissioners of the county in which the confined feeding operation is to be located; not more than ten (10) working days after submitting an application. The notice must be sent by mail, be in writing, include the date on which the application was submitted to the department, and include a brief description of the subject of the application. The applicant shall pay the cost of complying with this section. The applicant shall submit an affidavit to the department that certifies that the applicant has complied with this section. (*Water Pollution Control Board; 327 IAC 16-7-12; filed Feb 8, 2002, 1:30 p.m.: 25 IR 1894*)

327 IAC 16-7-13 Public comment periods and hearings

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-18-10-4

Affected: IC 13-11-2; IC 13-14; IC 13-15-3-1; IC 13-18; IC 13-30

Sec. 13. (a) This section applies to:

(1) an application for an approval for a confined feeding operation that has:

(A) conducted confined feeding activities as defined in 327 IAC 16-2-4 prior to application for an approval; and

(B) had a discharge prior to application for an approval;

(2) an application for an approval for a confined feeding operation that will have twenty (20) times the animal numbers listed in 327 IAC 16-2-5; or

(3) an application for an approval renewal for a confined feeding operation that has had a discharge subject to an enforcement action by the agency within the previous five (5) years.

(b) Upon receipt of an application package, the department shall provide notice of receipt of the application to:

- (1) the owner/operator;
- (2) the public through notice in a newspaper; and
- (3) local officials in accordance with IC 13-15-3-1.

(c) A comment period of at least thirty (30) days following the date of public notice of the receipt by the department of an approval application shall be provided. During this period, any interested persons may submit written comments on the approval application and may request a public hearing. A request for a public hearing shall be in writing and shall state the nature of the issues to be raised and the reasons why a hearing is warranted. The commissioner, after reviewing all comments, shall make a decision consistent with this article and applicable federal and state laws.

(d) A public hearing on an approval application may be held by the commissioner in appropriate cases where environmental concerns relevant to applicable rules or laws are raised, either on the commissioner's own initiative or in response to a request or requests for public hearing submitted during the public comment period. Such a hearing shall be held where the commissioner finds there is a significant public interest in the approval application. (*Water Pollution Control Board; 327 IAC 16-7-13; filed Feb 8, 2002, 1:30 p.m.: 25 IR 1894*)

Rule 8. Manure Handling and Storage; Site, Design, and Construction Requirements

327 IAC 16-8-1 Site restrictions for new waste management systems for liquid or solid manure

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-18-10-4

Affected: IC 13-11-2; IC 13-14; IC 13-15; IC 13-18; IC 13-30

Sec. 1. (a) New waste management systems for liquid or solid manure must not be constructed:

- (1) except for subsection (b), in karst terrain based on information compiled by the department, and from karst and bedrock maps from the Indiana Geological Survey dated 1997;
- (2) in a floodway;
- (3) in a one hundred (100) year flood plain, unless all waste management system access is at least two (2) feet above the one hundred (100) year flood plain;
- (4) except for subsection (b), over mines; or
- (5) in soil that is expected to be in the seasonal high water table, unless the water table is lowered to keep the water table below the bottom of the waste management system.

(b) The commissioner may approve a new waste management system to be constructed in karst terrain or over mines based upon the following site-specific information submitted to the commissioner:

- (1) For earthen manure storage structures for liquid manure, in addition to 327 IAC 16-7-2(b)(5), information from at least one (1) of the soil borings or test holes to the shallower of either:
 - (A) bedrock; or
 - (B) ten (10) feet below the lowest point of the proposed waste management system.
- (2) Characterization of the seasonal water table and soil.
- (3) Design specifications that indicate adequate structural integrity and environmental protection.
- (4) Other information that the commissioner deems necessary to ensure protection of human health and the environment.

(*Water Pollution Control Board; 327 IAC 16-8-1; filed Feb 8, 2002, 1:30 p.m.: 25 IR 1895*)

327 IAC 16-8-2 Waste management system setbacks

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-18-10-4

Affected: IC 13-11-2; IC 13-14; IC 13-15; IC 13-18; IC 13-30

Sec. 2. (a) Waste management systems must be located to maintain the minimum setback distances from the following features that are known and identifiable at the time of application:

- (1) One thousand (1,000) feet from a public water supply well or public water supply surface intake structure.
- (2) Except for subsection (b), three hundred (300) feet from:

- (A) surface waters of the state;
- (B) drainage inlets, including water and sediment control basins;
- (C) sinkholes, as measured from the surficial opening or the lowest point of the feature; and
- (D) off-site water wells.

(3) One hundred (100) feet from:

- (A) on-site water wells;
- (B) property lines; and
- (C) public roads.

(b) A solid manure storage structure that contains the manure and prevents storm water from entering the structure must be maintained to have a minimum setback of one hundred (100) feet from the features in [subsection] (a)(2) of this section.

(c) If one (1) of the features in subsection (a) is constructed within the specified setback distance in subsection (a), then a new waste management system may be constructed no closer to the new feature than the distance between the original waste management system and the new feature, providing that:

- (1) the new feature was not under the control of the owner/operator of the confined feeding operation; and
- (2) the new feature was constructed after the application for original new waste management system was submitted to the department.

(d) The owner/operator may obtain a reduced setback under 327 IAC 16-5, by demonstrating to the commissioner that a different compliance approach meets the performance standards in 327 IAC 16-3-1.

(e) If deemed necessary to protect human health or the environment, the commissioner shall require a greater setback distance or require setback distances to residences and public buildings based on:

- (1) surface gradient; or
- (2) other criteria related to protection of human health or the environment.

(f) The commissioner shall provide written documentation of the basis for requiring additional setback distances under subsection (e). (*Water Pollution Control Board; 327 IAC 16-8-2; filed Feb 8, 2002, 1:30 p.m.: 25 IR 1895*)

327 IAC 16-8-3 Design requirements applicable to all new waste management systems

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-18-10-4

Affected: IC 13-11-2; IC 13-14; IC 13-15; IC 13-18; IC 13-30

Sec. 3. (a) The base of a new manure storage structure must be above bedrock as follows:

- (1) If not in karst terrain, the base must be at least two (2) feet above bedrock.
- (2) If in karst terrain, the base must be at a distance above bedrock that is determined by the commissioner based on information provided under section 1(b) of this rule.

(b) Any drainage system to lower a seasonal water table around the base of a waste management system must be equipped with an access point for sampling.

(c) If determined to be necessary to protect human health or the environment in highly permeable soils, in areas with a high water table, on steep slopes, in proximity to bedrock, or in sensitive areas, the commissioner may require additional design standards, such as:

- (1) monitoring systems;
- (2) liners;
- (3) higher compaction;
- (4) innovative technology; or
- (5) other protective measures.

(d) The commissioner shall provide written documentation of the basis for requiring additional design

standards under subsection (c). (*Water Pollution Control Board; 327 IAC 16-8-3; filed Feb 8, 2002, 1:30 p.m.: 25 IR 1895*)

327 IAC 16-8-4 Storage capacity for manure storage structures

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-18-10-4

Affected: IC 13-11-2; IC 13-14; IC 13-15; IC 13-18; IC 13-30

Sec. 4. All new manure storage structures for the confined feeding operation must be designed, constructed, and maintained with a combined storage capacity of at least one hundred eighty (180) days storage for:

- (1) manure;
- (2) if applicable, bedding;
- (3) net average rainfall; and
- (4) if applicable, the expected rainfall and run-off from a twenty-five (25) year, twenty-four (24) hour precipitation event that falls on the drainage area around the liquid manure storage structure, but not to include the expected rainfall and run-off from a twenty-five (25) year, twenty-four (24) hour precipitation event that falls directly on the liquid manure storage structure.

(*Water Pollution Control Board; 327 IAC 16-8-4; filed Feb 8, 2002, 1:30 p.m.: 25 IR 1896*)

327 IAC 16-8-5 Design requirements applicable to all new liquid manure storage structures

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-18-10-4

Affected: IC 13-11-2; IC 13-14; IC 13-15; IC 13-18; IC 13-30

Sec. 5. (a) For any uncovered new liquid manure storage structures, the design must include a minimum of two (2) feet of freeboard to include the expected rainfall from a twenty-five (25) year, twenty-four (24) hour precipitation event that falls directly on the liquid manure storage structure.

(b) An emergency spillway must exist to handle overflow for an uncovered new liquid manure storage structure that receives precipitation run-off from a drainage area, not including the manure storage structure surface area, that exceeds fifty percent (50%) of the surface area of the manure storage structure.

(c) An emergency spillway required under subsection (b) must:

- (1) direct manure to:
 - (A) secondary containment;
 - (B) an appropriate manure storage structure; or
 - (C) an approved vegetative management system; and
- (2) be designed to handle the run-off from a fifty (50) year, twenty-four (24) hour precipitation event.

(d) Manure transfer systems must be designed and constructed to minimize leaks and seepage and prevent spills. (*Water Pollution Control Board; 327 IAC 16-8-5; filed Feb 8, 2002, 1:30 p.m.: 25 IR 1896*)

327 IAC 16-8-6 Design requirements applicable to all new concrete storage structures for liquid manure

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-18-10-4

Affected: IC 13-11-2; IC 13-14; IC 13-15; IC 13-18; IC 13-30

Sec. 6. In addition to sections 1 through 5 of this rule, new concrete storage structures for liquid manure must be designed to be structurally sound through:

- (1) a concrete mixture that is well-proportioned and consolidated;
- (2) minimized cracking;
- (3) joints that are properly spaced, sized, designed, and constructed;
- (4) adequate reinforcement steel;
- (5) a foundation that provides necessary support; and
- (6) use of water stops.

(*Water Pollution Control Board; 327 IAC 16-8-6; filed Feb 8, 2002, 1:30 p.m.: 25 IR 1896*)

327 IAC 16-8-7 Design requirements applicable to all new earthen manure storage structures for liquid manure

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-18-10-4
Affected: IC 13-11-2; IC 13-14; IC 13-15; IC 13-18; IC 13-30

Sec. 7. (a) In addition to sections 1 through 5 of this rule, and the performance standards of 327 IAC 16-3-1, new earthen manure storage structures must meet the requirements of this section.

(b) New earthen manure storage structures for liquid manure must not have a seepage rate that exceeds one-sixteenth ($\frac{1}{16}$) inch per day.

(c) Designs for new earthen storage structures for liquid manure must be certified by a professional engineer registered in Indiana.

(d) If determined to be necessary to protect the environment, the commissioner may require additional design standards, such as:

- (1) monitoring systems;**
- (2) liners;**
- (3) higher compaction;**
- (4) innovative technology; or**
- (5) other protective measures.**

(e) The commissioner shall provide written documentation describing the basis for requiring additional design standards. (Water Pollution Control Board; 327 IAC 16-8-7; filed Feb 8, 2002, 1:30 p.m.: 25 IR 1896)

327 IAC 16-8-8 Design requirements applicable to solid manure storage structures

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-18-10-4
Affected: IC 13-11-2; IC 13-14; IC 13-15; IC 13-18; IC 13-30

Sec. 8. (a) Solid manure storage structures must not be constructed in sand or gravel soils, Unified Soil Classification of Pt, GW, GP, GM, GC, SW, SP, SM, SC, unless specially designed with an approved liner.

(b) Run-on and precipitation must be diverted away from the solid manure storage structures, unless the design includes a method to collect and manage the contaminated run-off.

(c) For purposes of this article, stockpiling of solid manure at the confined feeding operation is subject to the design standards of this section. (Water Pollution Control Board; 327 IAC 16-8-8; filed Feb 8, 2002, 1:30 p.m.: 25 IR 1897)

327 IAC 16-8-9 Design requirements applicable to other manure storage structures

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-18-10-4
Affected: IC 13-11-2; IC 13-14; IC 13-15; IC 13-18; IC 13-30

Sec. 9. (a) Installation of underground steel storage tanks for manure is prohibited.

(b) Plastic and fiberglass tanks and aboveground steel tanks must comply with the following:

- (1) Tanks must have sufficient strength to withstand design loads.**
- (2) All tanks must be watertight.**
- (3) Tanks used to store other substances must be cleaned to remove any traces of other chemicals prior to addition of manure to the tank.**
- (4) Tanks must be designed and installed to ensure the seasonal high water table is maintained below the tank or the tank must be anchored to prevent flotation.**
- (5) Aboveground tanks must have protected shut-off valves for all inlet and outlet pipes.**

(Water Pollution Control Board; 327 IAC 16-8-9; filed Feb 8, 2002, 1:30 p.m.: 25 IR 1897)

327 IAC 16-8-10 Vegetative management systems

Authority: IC 13-14-8-1; IC 13-18-10-4
Affected: IC 13-11-2; IC 13-14-12; IC 13-18; IC 13-30

Sec. 10. (a) A settling basin, low velocity channel, or equivalent structure must be provided between the vegetative management system and the source of contaminated run-off or waste liquid. A constructed settling basin or low velocity channel designed for the one (1) year, one (1) hour precipitation event must have sufficient capacity to store the contaminated run-off or waste liquid and the expected sediment.

(b) Vegetative management systems must have minimum dimensions based on the peak outflow from the confined feeding area or settling basin based on a twenty-five (25) year, twenty-four (24) hour precipitation event. *(Water Pollution Control Board; 327 IAC 16-8-10; filed Feb 8, 2002, 1:30 p.m.: 25 IR 1897)*

327 IAC 16-8-11 Constructed wetlands

Authority: IC 13-14-8-1; IC 13-18-10-4

Affected: IC 13-11-2; IC 13-14-12; IC 13-18; IC 13-30

Sec. 11. (a) This section applies to the use of a constructed wetland as a waste management system for contaminated run-off or waste liquid.

(b) The owner/operator of a confined feeding operation that plans to use a constructed wetland and discharge the treated effluent must comply with applicable state and federal requirements.

(c) The owner/operator of a confined feeding operation that plans to use a constructed wetland and does not plan to discharge the treated effluent must:

(1) obtain approval of the design plan from the commissioner; and

(2) apply the treated effluent to the land in accordance with 327 IAC 16-10 or in accordance with an alternate method described in the manure management plan under 327 IAC 16-7-11(b)(1).

(Water Pollution Control Board; 327 IAC 16-8-11; filed Feb 8, 2002, 1:30 p.m.: 25 IR 1897)

327 IAC 16-8-12 Construction requirements for waste management systems

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-18-10-4

Affected: IC 13-11-2; IC 13-14; IC 13-15; IC 13-18; IC 13-30

Sec. 12. (a) All waste management systems must be constructed to minimize leaks and seepage and prevent spills that could contaminate ground water or surface water.

(b) The owner/operator shall notify the commissioner when construction on a new waste management system begins.

(c) The commissioner may incorporate conditions into the approval that require testing to verify that the earthen liquid waste management system is consistent with the design and meets the performance standards established in this article.

(d) Within thirty (30) days after the date construction of an approved waste management system is completed, and prior to the introduction of any animals, the applicant shall execute and send to the commissioner an affidavit, under penalty of perjury, that a waste management system was constructed, and will be operated, in accordance with the requirements of the approval and this article. *(Water Pollution Control Board; 327 IAC 16-8-12; filed Feb 8, 2002, 1:30 p.m.: 25 IR 1897)*

Rule 9. Manure Handling and Storage; Operational Requirements

327 IAC 16-9-1 Maintenance requirements

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-18-10-4

Affected: IC 13-11-2; IC 13-14; IC 13-15; IC 13-18; IC 13-30

Sec. 1. (a) All waste management systems and application equipment must be maintained and operated to meet the approval conditions.

(b) Management of liquid and solid manure must be in compliance with the following:

- (1) This article.**
- (2) The confined feeding operation approval.**
- (3) All applicable state and federal laws.**

(c) Manure must be in an approved manure storage structure until removed for land application in accordance with 327 IAC 16-10.

(d) If uncovered, liquid manure storage structures must be maintained with a minimum freeboard of two (2) feet or as specified in the approval conditions.

(e) The owner/operator shall inspect all waste management systems for compliance with this article and the approval conditions and, if applicable, freeboard as specified in subsection (d) or the approval, at least one (1) time each month. Completed self-monitoring records must be kept in the operating record described in section 5 of this rule.

(f) Uncovered liquid manure storage structures must have clearly identified markers to indicate manure levels relative to the approved freeboard elevation.

(g) All earthen berms for manure storage structures must:

- (1) be stabilized with vegetation or alternative erosion control measures; and**
- (2) be maintained to allow for visual inspection.**

(h) An owner/operator that plans to use a vegetative management system must operate and maintain the vegetative management system to provide effective treatment.

(i) Migration of solids from contaminated run-off from any feedlot must be minimized. (*Water Pollution Control Board; 327 IAC 16-9-1; filed Feb 8, 2002, 1:30 p.m.: 25 IR 1898*)

327 IAC 16-9-2 Transport and handling

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-18-10-4

Affected: IC 13-11-2; IC 13-14; IC 13-15; IC 13-18; IC 13-30

Sec. 2. Pumping, dumping, or allowing the leakage or drainage of manure from a manure transfer vehicle onto unauthorized premises, public thoroughfares, or into waters of the state is prohibited. (*Water Pollution Control Board; 327 IAC 16-9-2; filed Feb 8, 2002, 1:30 p.m.: 25 IR 1898*)

327 IAC 16-9-3 Dead animal compost operations

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-18-10-4

Affected: IC 13-11-2; IC 13-14; IC 13-15; IC 13-18; IC 13-30

Sec. 3. (a) Dead animal compost operations must have run-on and run-off control.

(b) Dead animal compost may be applied to the land if in accordance with the manure application requirements in this article. (*Water Pollution Control Board; 327 IAC 16-9-3; filed Feb 8, 2002, 1:30 p.m.: 25 IR 1898*)

327 IAC 16-9-4 Emergency spill response plan

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-18-10-4

Affected: IC 13-11-2; IC 13-14; IC 13-15; IC 13-18; IC 13-30

Sec. 4. (a) The owner/operator of a confined feeding operation shall:

- (1) develop an emergency spill response plan as described in subsection (c);**
- (2) keep it in the operating record;**
- (3) implement the emergency spill response plan at any time a spill occurs; and**
- (4) familiarize all employees involved with manure handling with the emergency spill response plan.**

(b) The emergency spill response plan must be located at the confined feeding operation in a place accessible to all employees.

(c) The emergency spill response plan must include the following:

(1) The names and telephone numbers of persons who are identified by the owner/operator as responsible for implementing the emergency spill response plan.

(2) Areas where potential spills can occur and their accompanying drainage points.

(3) Procedures to be followed in the event of a spill, including the following:

(A) Actions to contain or manage any spill of manure.

(B) Identification of the proper authorities to be contacted.

(C) Mitigation of any adverse effects of the spill.

(4) Identification of equipment and clean-up materials to be used in the event of a spill.

(5) Procedures for reporting the spill to:

(A) the confined feeding operation owner/operator;

(B) any applicable local emergency or health authorities; and

(C) the department in accordance with 327 IAC 2-6.1.

(Water Pollution Control Board; 327 IAC 16-9-4; filed Feb 8, 2002, 1:30 p.m.: 25 IR 1898)

327 IAC 16-9-5 Operating record

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-18-10-4

Affected: IC 13-11-2; IC 13-14; IC 13-15; IC 13-18-10; IC 13-30

Sec. 5. (a) The following information must be added to the operating record in accordance with required time frames established in this article and IC 13-18-10, and must be maintained and updated in the operating record:

(1) All valid approvals, amendments, and notifications relevant to the approvals.

(2) The current manure management plan.

(3) The current emergency spill response plan.

(b) The operating record must also contain all applicable records from the following:

(1) Section 1(e) of this rule, regarding completed self-monitoring records for three (3) years.

(2) 327 IAC 16-10-1, regarding minimum acreage records.

(3) 327 IAC 16-10-2(c), regarding land application records for five (5) years.

(4) 327 IAC 16-10-5(c), regarding marketing and distribution records for three (3) years.

(5) Documentation of any spill response implemented in accordance with section 4(a)(3) of this rule by confined feeding operation personnel within the past five (5) years.

(Water Pollution Control Board; 327 IAC 16-9-5; filed Feb 8, 2002, 1:30 p.m.: 25 IR 1899)

Rule 10. Land Application of Manure

327 IAC 16-10-1 Required acreage for manure application

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-18-10-4

Affected: IC 13-11-2; IC 13-14; IC 13-15; IC 13-18; IC 13-30

Sec. 1. (a) A minimum number of acres for manure application must be maintained and documented in the operating record at all times based on:

(1) agronomic rates for potentially available nitrogen provided by a laboratory soil test, and a manure test;
or

(2) application rates not to exceed one hundred fifty (150) pounds of potentially available nitrogen per acre per year, for confined feeding operations that have not received the test results on the soil and manure.

(b) Any acreage identified as part of the minimum required acreage for the application of manure that is not owned by the owner of the confined feeding operation must be documented in the operating record via land use agreements signed by the property owners on whose property the manure will be applied.

(c) The calculation of acreage identified as part of the minimum required acreage for manure application must

only include acreage that meets the site restrictions in section 3 of this rule and the setbacks in section 4 of this rule.

(d) If the applicant can demonstrate to the satisfaction of the commissioner that a smaller amount of acreage can be used and is equally protective of human health and the environment, the commissioner may approve the different amount of acreage based on site-specific criteria submitted with the application package, including:

- (1) type of manure generated;
- (2) alternate methods of managing manure;
- (3) innovative technology; or
- (4) other criteria related to protection of human health or the environment.

(e) Copies of any written waivers related to reduction of the property line setback distances must be kept in the operating record. (*Water Pollution Control Board; 327 IAC 16-10-1; filed Feb 8, 2002, 1:30 p.m.: 25 IR 1899*)

327 IAC 16-10-2 Manure application rates

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-18-10-4

Affected: IC 13-11-2; IC 13-14; IC 13-15; IC 13-18-10; IC 13-30

Sec. 2. (a) The owner/operator of a new confined feeding operation shall have a soil test and a manure test conducted in accordance with the manure management plan that is submitted to the commissioner to meet the requirement in 327 IAC 16-7-2(b)(6).

(b) The agronomic rate for potentially available nitrogen must not exceed the nitrogen requirements of current or planned crops of the upcoming growing season as documented in the operating record.

(c) The following information must be added to the operating record as needed in accordance with required time frames established in this article and IC 13-18-10, and must be maintained and updated in the operating record:

- (1) The type of manure applied.
- (2) Results of manure tests.
- (3) Soil tests for all manure application sites.
- (4) The amount of manure applied.
- (5) The type of application method used.
- (6) Identification of locations and number of acres on which manure is applied.
- (7) The dates on which the manure is applied.
- (8) Determination of the agronomic rates for potentially available nitrogen used to apply manure to each field.

(*Water Pollution Control Board; 327 IAC 16-10-2; filed Feb 8, 2002, 1:30 p.m.: 25 IR 1899*)

327 IAC 16-10-3 Manure application activities

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-18-10-4

Affected: IC 13-11-2; IC 13-14; IC 13-15; IC 13-18; IC 13-30

Sec. 3. (a) Manure that is staged at the manure application site for more than seventy-two (72) hours must be:

- (1) covered or otherwise protected; and
- (2) applied to the site within ninety (90) days.

(b) Staging of solid manure at the manure application site is prohibited:

(1) within three hundred (300) feet of surface waters of the state, drainage inlets, including water and sediment control basins, or water wells unless there is:

(A) a barrier; or

(B) a surface gradient that contains or directs any contaminated run-off away from the waters of the state, drainage inlets, including water and sediment control basins, or water wells;

(2) on any area with a slope greater than six percent (6%), unless run-on and run-off is controlled; or

(3) on any standing water or waterway.

- (c) To prevent leaks or excessive application of liquid manure spray irrigation must be conducted:
- (1) under the constant supervision of a person designated by the owner/operator or as specified in the approval;
 - (2) with devices to detect pressure loss due to leaks and devices to shut down the system if leaks are detected;
- or
- (3) in accordance with a spray irrigation plan approved by the department.

(d) Spray irrigation of manure must not be applied to any land that has less than twenty (20) inches of soil above the bedrock unless in accordance with an approved spray irrigation plan.

- (e) Spray irrigation in a flood plain must be conducted in accordance with a spray irrigation plan that:
- (1) addresses spray irrigation in a flood plain; and
 - (2) has been approved by the commissioner.

- (f) Application of manure to frozen ground must be handled in accordance with the following:
- (1) Surface application of manure to slopes in excess of two percent (2%) without adequate residue protection or crop cover is prohibited on snow covered or frozen ground.
 - (2) Surface application to snow covered or frozen ground of manure from a new or amended operation approved after the effective date of this rule is prohibited, except as allowed in conditions established in a valid approval obtained under 327 IAC 16-7.
 - (3) Spray irrigation of liquid manure to snow covered or frozen ground is prohibited.
 - (4) Any manure application that causes a water quality violation is a violation of this article and will result in enforcement action.

(g) Manure must not be applied to the land from manure application equipment operating on a public road.

- (h) Liquid or solid manure must not be applied to highly erodible land unless:
- (1) the land has residue protection or crop cover; or
 - (2) in accordance with a conservation plan.

(i) Manure shall not be applied on saturated ground. (*Water Pollution Control Board; 327 IAC 16-10-3; filed Feb 8, 2002, 1:30 p.m.: 25 IR 1900*)

327 IAC 16-10-4 Manure application setbacks
 Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-18-10-4
 Affected: IC 13-11-2; IC 13-14; IC 13-15; IC 13-18; IC 13-30

Sec. 4. (a) Except under subsections (e) and (f), application of manure must be in accordance with the setbacks in Table 1:

Table 1.
 SETBACK DISTANCES (in feet)

Known Feature	Liquid Injection or Single Pass Incorporation	Liquid Incorporation; Application to Pasture; or Solid or Composted Manure Application	Liquid Surface Application	
			Less than or Equal to 6% Slope; or Residue Cover	Greater than 6% Slope
Public water supply wells and public water supply surface intake structures	500	500	500	500
Surface waters of the state	25	50	100	200

Sinkholes (measured from the surficial opening or the lowest point)	25	50	100	200
Wells	50	50	100	200
Drainage inlets	5	50	100	200
Property lines and public roads	0	10	50	50

(b) Liquid incorporation of manure in Table 1 means only manure that has been incorporated into the soil within twenty-four (24) hours of placement on the land.

(c) All setback distances must be measured from the edge of the area of actual placement of manure on the land.

(d) The property line setback distances specified in subsection (a), Table 1, may be waived in writing by the owner of the adjoining property.

(e) If a properly designed and maintained filter strip is located between the application site and:

- (1) waters of the state;
- (2) any known well;
- (3) the surficial opening or lowest point of any sinkhole; or
- (4) any drainage inlet, including water and sediment control basins;

then the setback is the width of the filter strip.

(f) The setback is ten (10) feet if a gradient barrier is located between the application site and:

- (1) surface waters of the state;
- (2) any known well;
- (3) the surficial opening or lowest point of any sinkhole; or
- (4) any drainage inlet, including water and sediment control basins.

(g) The owner/operator may obtain a reduced setback under 327 IAC 16-5, by demonstrating to the commissioner that a different compliance approach meets the performance standards in 327 IAC 16-3-1. (*Water Pollution Control Board; 327 IAC 16-10-4; filed Feb 8, 2002, 1:30 p.m.: 25 IR 1900*)

327 IAC 16-10-5 Marketing and distribution of manure

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-18-10-4

Affected: IC 13-11-2; IC 13-14; IC 13-15; IC 13-18; IC 13-30

Sec. 5. (a) The owner/operator of the confined feeding operation shall provide an information sheet to any person that receives or purchases more than ten (10) cubic yards or two thousand (2,000) gallons of manure in a year from the confined feeding operation unless the owner/operator takes responsibility for applying the manure.

(b) The information sheet must contain, at a minimum, the following information:

- (1) The name and address of the confined feeding operation providing the manure.
- (2) A statement indicating that it is unlawful to allow the manure to enter any waters of the state.
- (3) Information on the nutrient content of the manure.
- (4) The manure application requirements of this rule.

(c) The operating record must contain and be maintained and updated with records of any person who receives or purchases more than ten (10) cubic yards or two thousand (2,000) gallons of manure in a year to include:

- (1) the name and address of the person receiving or purchasing the manure;
- (2) the amount of manure received or purchased by the person; and

(3) a copy of the information sheet.

(d) All records in this section must be made available to a representative of the department during an inspection. *(Water Pollution Control Board; 327 IAC 16-10-5; filed Feb 8, 2002, 1:30 p.m.: 25 IR 1901)*

Rule 11. Closure of Manure Storage Structures

327 IAC 16-11-1 Applicability

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-18-10-4

Affected: IC 13-11-2; IC 13-14; IC 13-15; IC 13-18; IC 13-30

Sec. 1. (a) The owner/operator of confined feeding operations that plan to close or discontinue use of a manure storage structure must comply with the requirements in section 3 of this rule, as applicable. A manure storage structure is deemed closed when the environmental threat has been removed.

(b) The owner/operator of a confined feeding operation that plans to temporarily discontinue use of a manure storage structure must comply with section 2 of this rule. *(Water Pollution Control Board; 327 IAC 16-11-1; filed Feb 8, 2002, 1:30 p.m.: 25 IR 1901)*

327 IAC 16-11-2 Temporary shut-down of manure storage structures

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-18-10-4

Affected: IC 13-11-2; IC 13-14; IC 13-15; IC 13-18; IC 13-30

Sec. 2. (a) Manure storage structures that are temporarily shut down must be maintained in accordance with this article and a valid approval.

(b) A manure storage structure that has been temporarily shut down for three (3) years must be cleaned out in accordance with section 3(c)(1) and 3(c)(2) of this rule. *(Water Pollution Control Board; 327 IAC 16-11-2; filed Feb 8, 2002, 1:30 p.m.: 25 IR 1901)*

327 IAC 16-11-3 General closure requirements

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-18-10-4

Affected: IC 13-11-2; IC 13-14; IC 13-15; IC 13-18; IC 13-30

Sec. 3. (a) The owner/operator of a confined feeding operation that plans to close or discontinue use of a manure storage structure shall:

- (1) close the manure storage structure in accordance with the closure requirements in this section prior to expiration of the approval; or**
- (2) until the manure is removed, continue to maintain the manure storage structure in accordance with the requirements of the approval and this article.**

(b) If the confined feeding operation will not be completely closed, the owner/operator shall apply for an amendment to the approval for any manure storage structure that is to be closed, and:

- (1) recalculate the storage capacity for the confined feeding operation; and**
- (2) notify the department:**
 - (A) before demolishing or converting the use of any manure storage structure; and**
 - (B) of the intended future use of the manure storage structure if the manure storage structure is to be converted to another use.**

(c) The owner/operator of manure storage structures that are to be closed shall:

- (1) have all the manure removed from the manure storage structure;**
- (2) have the manure:**
 - (A) applied to the land in accordance with 327 IAC 16-10; or**
 - (B) managed in accordance with this article and applicable state and federal laws; and**
- (3) have all associated appurtenances, and conveyance structures removed from uncovered liquid manure**

storage structures.

(d) The owner/operator shall submit a certification to the commissioner within thirty (30) days of completing the requirements in this section that states compliance with the requirements in this section.

(e) If deemed necessary to protect human health or the environment, the commissioner may require additional closure activities based on:

- (1) surface or ground water contamination;**
- (2) evidence of leakage, seepage, or spills; or**
- (3) other criteria related to protection of human health or the environment.**

(Water Pollution Control Board; 327 IAC 16-11-3; filed Feb 8, 2002, 1:30 p.m.: 25 IR 1901)

Rule 12. Exiting the Confined Feeding Approval Program

327 IAC 16-12-1 Applicability

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-18-10-4

Affected: IC 13-11-2; IC 13-14; IC 13-15; IC 13-18; IC 13-30

Sec. 1. This rule applies to any confined feeding operation with a valid approval that wants to be removed from the program due to:

- (1) a reduction in the size of the confined feeding operation to a number of animals that is less than the definition of confined feeding operation in 327 IAC 16-2-5; or**
- (2) a decision to cease operation and completely close the entire confined feeding operation.**

(Water Pollution Control Board; 327 IAC 16-12-1; filed Feb 8, 2002, 1:30 p.m.: 25 IR 1902)

327 IAC 16-12-2 Exiting the confined feeding approval program due to a reduction in size of operation

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-18-10-4

Affected: IC 13-11-2; IC 13-14; IC 13-15; IC 13-18; IC 13-30

Sec. 2. (a) A confined feeding operation may be removed from the regulated confined feeding approval program, but continue to operate as a smaller operation, if:

- (1) the department has received a request from the owner/operator to be removed from the program and confirming that the confined feeding operation has and maintains fewer animals than the definition of confined feeding operations in 327 IAC 16-2-5; and**
- (2) approved by the commissioner based on a review of the criteria in subsection (b).**

(b) The commissioner shall review the following criteria in determining if a request to exit the confined feeding approval should be approved:

- (1) The number of animals at the confined feeding operation.**
- (2) Past enforcement actions relative to any discharges and current compliance with any outstanding violations.**
- (3) Existence of any conditions which pose a threat to human health or the environment.**

(c) The commissioner shall send the owner/operator a letter of confirmation when the department has verified that the requirements of subsection (a) have been met.

(d) For a confined feeding operation that has been removed from the confined feeding operation approval program under (a), the owner/operator must submit a new application under this article to again operate a confined feeding operation as defined in 327 IAC 16-2-5. *(Water Pollution Control Board; 327 IAC 16-12-2; filed Feb 8, 2002, 1:30 p.m.: 25 IR 1902)*

327 IAC 16-12-3 Exiting the confined feeding approval program due to a complete closure of the operation

Authority: IC 13-14-8-7; IC 13-15-2-1; IC 13-18-10-4

Affected: IC 13-11-2; IC 13-14; IC 13-15; IC 13-18; IC 13-30

Sec. 3. (a) A confined feeding operation may be removed from the regulated confined feeding approval program and completely closed if the department has been notified that:

(1) all livestock animals are removed from the site; and

(2) the confined feeding operation closes all manure storage structures in accordance with 327 IAC 16-11.

(b) The commissioner shall send the owner/operator a letter of confirmation when the department has verified that the requirements of subsection (a) have been met. (*Water Pollution Control Board; 327 IAC 16-12-3; filed Feb 8, 2002, 1:30 p.m.: 25 IR 1902*)

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